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HUMAN RIGHTS COMMITTEE

Fifty-second session

SUMMARY RECORD OF THE 1363rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 19 October 1994, at 3 p.m.

Chairman: Mr. ANDO

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of Tunisia (CCPR/C/84/Add.1; HRI/CORE/1/Add.46) (continued)

1. At the invitation of the Chairman, Mr. Ennaceur, Mr. Hetira, Mr. Kotrane, Mr. Cherif, Mr. Neji, Mr. Baati, Mr. Koubaa and Mr. Chatti (Tunisia) resumed their places at the Committee table.

2. The CHAIRMAN invited the members of the Committee to make their concluding observations on the fourth periodic report of Tunisia (CCPR/C/84/Add.1).

3. Mr. MAVROMMATIS thanked the delegation of Tunisia for its cooperation during the good-natured and constructive dialogue which had taken place. In replying to the Committee's many difficult questions, the head of the delegation had drawn on his extensive experience of work in the human rights field. Nevertheless, some of the replies had been less than satisfactory and the delegation had evidently misunderstood some of the Committee's questions, such as his own relating to the Tunisian Communist Party. He suggested that the delegation might usefully review the questions as reflected in the summary records.

4. While the Committee acknowledged that significant progress had been made in liberalizing the country's political life, in establishing new mechanisms for dealing with human rights abuses and in eliminating discrimination, much remained to be done in the area of internal security to deal with a disturbing number of cases of unlawful detention, torture and death in custody. New measures, such as an improved system of registering arrests, were needed to ensure that any period spent by an individual in custody was fully accounted for from the moment of arrest onwards. Further efforts were required to ensure that the clauses of the Covenant relating to non-discrimination against women and children and to certain political rights relating to elections were fully respected.

5. Whatever human rights mechanisms were established needed constantly to prove their efficacy and their independence from the executive by taking effective action against culprits whenever abuses were reported. Only by so doing could they win the confidence of non-governmental organizations (NGOs) and of the international community. He hoped that the Government of Tunisia would accede to the First Optional Protocol, which would allow the Committee to be seized of individual complaints and provide an important additional safeguard for the rights of Tunisian citizens.

6. Mr. POCAR observed that the discussion with the Tunisian delegation had been very constructive and that the delegation had attempted conscientiously to reply to the questions raised. The Committee had taken note of the real progress which had been made in applying many provisions of the Covenant. Nevertheless, most of the concerns which the Committee had voiced during its consideration of the third periodic report (CCPR/C/52/Add.5) were still valid.

It was particularly disquieting that some recent laws governing the activities of the press, political parties and associations appeared to give excessive discretionary powers to administrative and executive bodies at the expense of the judiciary. While adequate measures were clearly needed to combat religious and political extremism, many of the solutions adopted by the Government were not compatible with the provisions of the Covenant. Ratification of the Optional Protocol would provide a vital additional guarantee for the rights of the Tunisian citizens, and he hoped that the Government of Tunisia would give serious consideration to taking that step.

7. Mr. WENNERGREN thanked the delegation for its contribution to the very constructive dialogue, which had greatly improved the Committee's understanding of the situation in Tunisia. His overall impression was that the delegation had been sincere and conscientious in answering the Committee's questions, while understandably concerned to defend its Government's record. The delegation had sometimes appeared to be unduly dismissive of information on human rights violations cited in the press or the report of the United States Department of State or by other sources, and he hoped the Tunisian authorities would make every effort to become more open to criticism rather than defensively rejecting such allegations as "misinformation". It was essential in a free society for journalists to be allowed to work freely, without fear of being penalized when they sometimes, in all good faith made mistakes.

8. In general, he felt that existing legislation was still inadequately implemented and that Tunisian citizens were very far from enjoying the civil liberties which should be guaranteed under the Covenant. A disturbing number of serious human rights violations had been reported. Freedom of expression and freedom of opinion were still restricted, and political activity regulated, to a greater degree than was consistent with the Covenant. Moreover, there was a lack of openness in official circles which, inter alia, protected the anonymity of persons accused of human rights crimes and did not sit well with the country's aspirations to becoming an advanced democracy. It was to be hoped that the authorities would give serious consideration to making further improvements in those areas.

9. Mrs. HIGGINS said that Tunisia's report was good and informative and the delegation had made serious efforts to answer the Committee's questions. Like other members, she had noted with appreciation a number of positive developments in the area of political and civil rights, as well as the ratification of certain international instruments and the enactment of legislation aimed at enhancing the rights of detainees, women, foreign nationals and others. The Committee accepted the assurance given that members of the Baha'i community could not legally be persecuted. However, there was much room for improvement in many fields, and the Committee's recommendations - for instance, regarding the need for strict adherence to a 10-day maximum period of custody - were to be regarded as minimum requirements.

10. Despite the conscientious efforts of the delegation, some of the answers it had given, particularly to questions relating to the application of article 19 of the Covenant, had been too general and lacking in pertinent detail and in certain specific areas had failed to allay the Committee's

concerns. For example, she remained convinced that some of the grounds on which passports might be withdrawn were not compatible with article 12 (3) of the Covenant. Furthermore, it was the Committee's view that the restrictions on the press allowed under Tunisian law went far beyond what was permissible under article 19 of the Covenant and violated the fundamental principle that the State should not attempt to curtail press freedom unless public order or national security were seriously jeopardized.

11. With regard to the rules governing detention, it happened all too often that families were not informed of arrests or of where detainees were being held; that made it easier for the police to falsify detention dates and deny detainees their basic rights. It was essential to ensure that families were informed of arrests immediately.

12. With respect to torture, she considered it absolutely unacceptable that the anonymity of suspected torturers was protected. The delegation had said that officials found guilty of torture had been punished, but it had not yet provided any specific details of the individuals concerned, the nature of their crimes or the criminal sanctions imposed. All the evidence suggested that torture was still a serious problem.

13. In conclusion, she hoped that the Government of Tunisia would decide to accede to the Optional Protocol, which would provide an important additional safeguard for the rights of Tunisian citizens. She noted, however, that ratification of international instruments, while furnishing an important mechanism for improved international scrutiny, was not an end per se nor was it in itself enough to improve the human rights situation in a country without the wholehearted commitment of the national authorities to taking effective action.

14. Mr. BAN, thanking the Tunisian delegation for its cooperation, noted that Tunisia was playing an active role in a number of international human rights bodies, had acceded to the basic human rights instruments and had achieved significant improvements in its human rights record during the reporting period. In doing so, and in sending a very competent and high-level delegation to the Committee's session, it had demonstrated its fundamental commitment to the cause of human rights. The discussion with the delegation had been very useful and constructive.

15. However, irrespective of the undoubted need to combat extremism in the country, which itself posed a threat to human rights, the evident tendency to concentrate power in the hands of the executive at the expense of the legislature and the judiciary and the consequent enfeeblement of essential checks and balances had led to a considerable number of alleged violations of the provisions of the Covenant. He shared the view of other members of the Committee that one essential step towards overcoming those problems was the accession of Tunisia to the Optional Protocol.

16. Mr. SADI agreed that the dialogue had been extremely useful, both for the Committee and, it was to be hoped, for the delegation, which had provided much very informative material that had tended to generate more, and often more searching, questions than would be the case with countries supplying little information.

17. He shared the concerns which had been expressed regarding the application of many clauses of the Covenant, and said that certain matters, such as cases of torture or suspicious deaths in custody, called for immediate action by the authorities. In particular, he hoped that the Tunisian authorities would regard the Committee's final recommendations as solemn requests and take appropriate action to remedy shortcomings.

18. The CHAIRMAN thanked all the members of the Tunisian delegation for the thoroughness with which they had done their work. The Committee was well aware of the serious difficulties faced by the Tunisian authorities in combating extremism, and its aim was not to subject the country to unfair criticism but to arrive at the truth and improve the situation wherever possible. He hoped that the Tunisian authorities would accept the Committee's comments in that spirit and take them into consideration when the next periodic report was submitted.

19. Mr. ENNACEUR (Tunisia) said that the exchange of views with the Committee had been very useful. The many pertinent comments made by Committee members had been taken into account by his delegation and would be given serious consideration by his Government. He had been particularly impressed by the Committee's professionalism in examining the written material presented and its desire to cooperate in efforts to improve the enjoyment of human rights, a task to which his country was fully committed.

20. The Committee had shown an awareness of the fact that real and continuing progress, and not simply progress "on paper", was being made in Tunisia in the area of human rights. New and effective institutions had been created to protect civil and political liberties. In some areas, notably in its reforms in the area of sexual equality, Tunisia was a leader in the Muslim world. It had been generally accepted that, where there had been human rights violations, they had been exceptional occurrences, normally arising from the difficult political situation which had prevailed in 1991-1992. Conditions had now been normalized, and further progress could be expected.

21. However, although that difficult period was over, the authorities regularly continued to follow up reports of abuses, instituting inquiries and undertaking legal proceedings where appropriate, since they deplored such violations and were determined to make every effort to stamp them out. Many of the reforms in progress were intended to provide structures that would prevent such excesses in future. A report of a recent committee of inquiry that had been given to the Chairman, further copies of which could be made available to the Committee on request, illustrated the kind of action being taken. He realized that certain claims made in the reports of some NGOs could well create doubts in the minds of Committee members, but he was persuaded that they would not accept such assertions uncritically without firm evidence, which did not exist.

22. The defence of human rights was not the exclusive prerogative of the treaty bodies, the international community and Governments. Within each country the most effective contribution to the defence of human rights was made by the efforts and vigilance of society at large. He wished to pay tribute to the many national non-governmental groups and associations in Tunisia engaged in that task, many of which had a long history. The Tunisian

labour organizations were among the oldest in Africa; they were strong, well-organized and active, with the result that Tunisia was universally acknowledged to have a high standard of social welfare. The professional association of lawyers was also long-established, strong and independent; many of its members had played a leading role in upholding human rights in the country. Despite its recent difficulties the Tunisian Human Rights League, which was the oldest human rights organization in the African and Arab world, was still a powerful organization, and was by no means subservient to government, continuing to denounce abuses whenever they occurred.

23. He was confident that Tunisia's next report would demonstrate further progress in the human rights field. Thanking the Committee for a most fruitful dialogue and expressing appreciation of the help which his delegation had received from the Secretariat in preparing for the meetings with the Committee, he extended a cordial invitation to all members who so wished to come to Tunisia to see for themselves the realities of life there.

24. The CHAIRMAN, thanking the Tunisian delegation for its contribution to the discussion, said that consideration of the fourth periodic report of Tunisia was now concluded. Tunisia's fifth periodic report would fall due on 4 February 1998.

25. Mr. Ennaceur, Mr. Hetira, Mr. Kotrane, Mr. Cherif, Mr. Neji, Mr. Baati, Mr. Koubaa and Mr. Chatti (Tunisia) withdrew.

Initial report of Nepal (CCPR/C/74/Add.2; HRI/CORE/1/Add.42) (continued)

26. At the invitation of the Chairman, Mr. Lacoul and Mr. Dhakal (Nepal) resumed their places at the Committee table.

27. The CHAIRMAN invited the delegation of Nepal to respond to members' questions regarding the initial report of Nepal (CCPR/C/74/Add.2).

28. Mr. LACOUL (Nepal) welcomed the counsel and encouragement given by the Committee in considering Nepal's initial report. Nepal was fully committed to following the path of democracy and to promoting the welfare of its peoples on the basis of an open society, but it was appropriate that its progress along that path should periodically be put to the test.

29. The Committee had expressed disappointment that his delegation had contained no representative from the Nepalese capital. In that connection, he pointed out that the Nepalese authorities had limited financial, technical and human resources and were unable to send representatives to all conferences and meetings; furthermore, the Nepalese Mission in Geneva had to cover a wide range of activities which stretched its resources. Another current difficulty was that the Nepalese Government had deferred all transfers, reassignments and travel by government officials until after the election on 15 November so as to enable such officials to devote all their efforts to its organization.

30. Nepal was currently negotiating with the Centre for Human Rights for technical cooperation, which would help it to improve its reports. It had

already received help from the Centre in translating of a number of international instruments into Nepalese, a task that was both expensive and time-consuming.

31. Over 4,000 national NGOs existed in Nepal, some of them affiliated to international bodies. Their large number in relation to the size and population of the country was proof of the interest of its people in their activities. Most were based either in the capital or in the larger towns, and they operated without interference from the Government. Some NGOs were very active in promoting human rights; training seminars on the subject had been held for government officials and the police, with the full support of the local authorities.

32. There had been a complaint that Nepal's initial report had not reached NGOs. However, the Nepalese Mission had made a point of informing those organizations of the existence of the report and had advised them to request copies from the Centre for Human Rights. Some NGOs had advised the Mission that they planned to submit comments on the report to the Committee.

33. Nepal was surrounded by two much larger neighbours with which it shared long borders. However, Nepal had managed to maintain a harmonious social order and had never suffered the kind of communal violence all too common in India. Yet that tradition of assimilation of all groups into society was fragile and could not be maintained by verbal encouragement alone; strong measures had been essential to maintain harmony. To the Nepalese, civil liberty implied freedom of action for all provided that it did not interfere with the freedom of others. Cooperation rather than competition enabled Nepalese communities to live together in friendship.

34. The least developed countries, of which Nepal was one, were in great financial difficulties. Despite their efforts to meet the prescriptions of the international financial institutions, they continued to bear a heavy burden of debt and to suffer a serious shortfall in export earnings owing to the decline in commodity prices. Promised development aid was not arriving, technology was not being transferred - all that and more prevented economic targets from being met. According to a recent UNCTAD assessment, the prospects were not much brighter for the future.

35. All those factors made it very difficult for Nepal, despite its best efforts, to find solutions to the social problems that prevented the full realization of human rights.

36. With regard to the comments made concerning article 1 of the Covenant, self-determination had been ensured by a free and fair election in 1991 which had promptly been followed by peaceful elections to local bodies. A large number of observers, both foreign and national, had been invited to attend the forthcoming general election in order to oversee the democratic process. Sixty-five political parties, representing a broad political spectrum from far right to far left, had put up a total of 1,059 candidates, and there were also 384 independent candidates. As with previous elections, voting was expected to take place peacefully.

37. To illustrate the way in which the democratic process was operating in Nepal, the previous parliament had been dissolved following its July 1994 session when, as a result of the absence of 36 members of the ruling party, the programme set out in the speech from the throne had been voted down. The Prime Minister had resigned, recommending the dissolution of parliament and the calling of a general election. A proclamation by the King to that effect had been challenged in the Supreme Court on the grounds that the Prime Minister's recommendation was invalid as a result of his resignation, but that challenge had not been upheld. During the several weeks of the Supreme Court hearings large demonstrations had taken place. Following the Supreme Court ruling, all parties had agreed to general elections on the date set. However, since the Government had wished to defer the election date by two days, the King had again had to submit the issue to the Supreme Court, which had ruled the postponement valid.

38. Since the Supreme Court was the ultimate guarantor of the right to self-determination, as it was of the independence of the legal system, the Committee's concern with regard to its operation was understandable. The Supreme Court consisted of 15 judges but their number had been increased, under the relevant provisions, by the appointment of three ad hoc judges. An Act had been in existence for some considerable time which regulated all aspects of the Supreme Court, including the conditions of employment of the judges.

39. The status of women was an issue which required careful handling in Nepal because it involved not merely the enactment of laws but also social and economic change. For example, the laws of inheritance were based on traditions thousands of years old. Progress could only be made gradually. It was only 20 years since legislation had been passed to enable women who had not married before the age of 35 to inherit. There was movement in that area, however. For example, some women members of parliament had recently been trying to introduce a bill on inheritance. With regard to citizenship, a court had recently ruled that a foreign man married to a Nepalese woman should have the same status as a foreign woman married to a Nepalese man. That decision would no doubt be reflected in legislation passed by the new parliament following its election. Special attention would also be given to the welfare of women, children, the disabled and other vulnerable groups. The former practice whereby a woman had only been granted a passport for travel abroad on receipt of the written consent of her guardian had been abolished. There was, however, a serious social problem connected with women's right to travel in that thousands of young women were being lured into prostitution in India. Because of the long, open border between the two countries, it was very difficult to monitor such traffic and in doing so to reconcile individual rights with the Government's duty towards its citizens.

40. Given its status as a least developed country and the mountainous nature of its terrain as well as the lack of infrastructure and communications in the country, Nepal was very vulnerable to natural disasters. Provisions regarding public emergencies were thus necessary. Should any person have grounds for complaint about the authorities during any three-month emergency period, he was quite free to seek legal redress through the courts.

41. With respect to the right to life, he acknowledged that there was a contradiction between the Constitution, which declared that no law should inflict the death penalty, and the provision for the death penalty in some legislation. The death penalty was invoked for crimes against the life and property of the monarch and under military law. However, no death sentence had been carried out in Nepal during the past 25 years, and considerable public discussion was currently under way as to its retention in the cases mentioned.

42. Mr. DHAKAL (Nepal) said that the Committee would find a full account of Nepalese law and practice with respect to torture in his country's report to the Committee against Torture submitted earlier in the year. The Constitution prohibited the practice of torture and established the principle of compensation for torture victims. A bill relating to compensation in cases of torture was still before parliament. The delay in its approval was due to the difficulties of the subject and also to the Government's wish to create a favourable climate of public opinion for its adoption. NGOs were organizing meetings throughout the country to inform people of the provisions of the bill. Another problem was the definition of torture, which it had been decided to broaden in order to bring it into line with the Convention against Torture.

43. Police and members of the prison service who employed torture were punished. The Nepal Police Act and other legislation already contained provisions for punishment of abuses, which had been applied when the need arose. In its ruling on an appeal lodged with it in 1989 by the Nepalese citizen who was now a member of the Committee against Torture, the Supreme Court had found that the law should not be used as a pretext to commit abuses against prisoners. The Supreme Court had also ruled that due process of law should be observed in applying the Public Security Act; a perceived threat to law and order should not be used as an excuse to keep persons in custody without justification for such action.

44. With regard to the provisions of article 10 of the Covenant, many aspects of prison life in Nepal reflected the conditions of life in the country generally, where modern conveniences were few, and did not necessarily indicate ill-treatment. A project for reform of prisons and prison legislation, supported by bilateral funding, had recently been initiated by the Government. Under the project, prisons would be inspected and supervised by the judiciary, which would have authority to order the release of anyone found to be unlawfully detained. Any failure by the prison authorities or the District Officer service to comply with the instructions of the visiting magistrates would be referred to the Supreme Court.

45. In connection with article 11 of the Covenant, it had been asked whether the Chief District Officer was entitled to keep a person in custody on grounds of contractual liability. The Chief District Officer was the coordinator of all the activities required to maintain political stability and law and order. His powers were quasi-judicial in nature, but their exercise was subject to appeal before the appellate courts or, in some cases, the district courts. His primary activity was mediation between the parties to a dispute, for which

purpose he could summon the individuals concerned to appear before him. In a case of blackmail, for example, the Chief District Officer could make a ruling and impose a small penalty, but his decision was open to appeal.

46. Turning to article 12 of the Covenant, he said there were no restrictions on freedom of movement except those specified in Nepal's legislation. Such legislation had been enacted to protect the country's wildlife and the traditional communities of people living in the jungles and forests, to maintain harmony among such communities, and to ensure the safety of potential visitors to such areas.

47. Concerning article 13, he said an alien could not be expelled unlawfully from Nepal. Foreigners could reside in the country and request citizenship, subject to certain conditions and limitations. Provision was made for extradition cases to be referred to the Supreme Court, although in fact no such case had yet arisen in Nepal. The principle of non-extradition of a person under threat of persecution in the country to which he was to be extradited was firmly established.

48. In connection with article 14, an explanation of the system of courts and tribunals had been requested. There was a three-tiered judicial system made up of district and appellate courts and the Supreme Court. In addition to those permanent institutions, ad hoc bodies could be established, under the Special Courts Act, to hear specific cases brought only by the Government. The special courts followed the same rules of procedure as the permanent courts, and their decisions were subject to appeal before the Supreme Court. Drug-trafficking cases, for example, were assigned by the Government to the special courts, and many verdicts had already been handed down.

49. Referring to articles 15 and 16 of the Covenant, he said the principles of nullem crimen sine lege and of recognition of an individual as a person before the law were applied in Nepal. There was no discrimination on the basis of caste, colour, religion or origin: everyone was entitled to the protection of the law before the courts. Because Nepal had a unitary political system, legislation was applicable in every part of the country - there were no separate laws for individual regions.

50. The right to privacy was assured, even though it was not spelled out in the legislation. As to whether the right to freedom of conscience could be suspended during a state of emergency, it was true that there was a constitutional provision to that effect, but its exercise was curtailed in practice. The framers of the Constitution had been particularly circumspect regarding provisions on emergency situations, owing to the country's past experience with the dissolution of Parliament and the deposing of the elected Government in the early 1960s.

51. During periods of crisis, the freedoms of assembly and conscience could be suspended for a maximum of six months: an initial suspension of three months, with the possibility of extension for three months by a decision of Parliament. If the suspension of those freedoms resulted in the violation by governmental authorities of fundamental rights, the individual concerned could go to court to challenge that abuse of authority. Even during a crisis,

newspapers were allowed to continue publishing, thus ensuring the free expression of opinion. There was no experience as yet with the application of the provisions relating to a state of emergency in Nepal.

52. In connection with article 19, the requirement that organizations or political parties should be registered had been described as impeding the exercise of the right to hold opinions without interference. Yet registration was justifiable as a way of keeping a record of the existence and activities of various organizations. The authorities responsible for public order had to have such information in order to perform their job properly. For example, 65 political parties had been registered to contest the forthcoming election in November 1994. The Election Commission needed such information in order to make proper arrangements for the election.

53. Turning to article 20, he said war propaganda was prohibited by the Constitution, but Nepal had as yet had no experience with the application of that provision. As to the rights of peaceful assembly and association under articles 21 and 22, it was those very rights that were now enabling 65 political parties to organize for the election. The Constitution, as well as the Trade Union Act, provided for the establishment of professional organizations: there were, for example, associations of workers, civil servants, teachers and university professors. The creation of an organization could be refused only on the grounds that its purposes were to foment mistrust among peoples, racism, caste feelings, etc.

54. In connection with article 23, many questions had been asked about the institution of marriage. Marriage must take place with the free consent of the parties concerned, and it created certain rights and duties as between husband and wife. If a marriage was shown to have been entered into under duress, it would be annulled. The age of marriage, as members of the Committee had noted, was different for the two sexes. Women were free to marry as from the age of 18: in order to marry at an earlier age, they needed the consent of their guardian, and no woman could be married below the age of 14. Men needed the consent of their guardian to marry below the age of 21. Those restrictions were intended to ensure the well-being of the family and to protect its individual members. As to whether spouses had an equal share in property, the answer was that they did.

55. A number of conditions had to be fulfilled for a divorce to be granted, but were exactly the same for men as for women. Any individual seeking a divorce must apply to the local or regional development committee. The committee then attempted to mediate between the spouses in order to save the marriage and maintain family unity. If the mediation failed, the case was referred to the local district court, which looked into the reasons for the requested divorce. For a divorce to be accorded, the spouses had to have been living separately for three years.

56. The rights and privileges of women in marriage included entitlement to half the communal property and receipt of a subsistence allowance for five years in the event that the husband instigated the divorce proceedings. A woman was automatically awarded custody of a child below five years of age: above that age, the child was questioned in court as to his or her preferred guardian.

57. In the context of article 24, the subject of child labour in the carpet industry had been raised. It was indeed a source of concern, and the Government was working to resolve the problem under a programme to eliminate child labour sponsored by the International Labour Organisation (ILO). It had also instituted a programme devoted to child welfare within its overall development efforts. Organizations for the care of orphans and for disabled children were active in Nepal. The Labour Act now prohibited the employment of children in any industrial establishment. A committee composed of representatives of the industrial sector, workers and the Government had recently been established under the Ministry of Labour to control the use of child labour. It would review statistics on the age and sex of workers in a given carpet-making plant prior to the granting of a carpet export licence. In a recent government survey of the carpet industry, only 1 per cent of the workers had been found to be minors - if the NGOs had arrived at a figure of 40 per cent, he could not explain that discrepancy.

58. Turning to article 27 of the Covenant dealing with minority rights, he said the term "minority" as defined by the United Nations did not really apply to any group in his country. No group was truly distinguishable from the rest of the population in terms of culture, language, outlook or any of the other attributes commonly mentioned in United Nations documents on minorities. All ethnic or tribal groups were protected in Nepal: they were given the opportunity to use and develop their language and script and to receive education in their mother tongue.

59. Lastly, in reply to the question raised by several members as to problems encountered in the implementation of the Covenant, he said that, taking into account the economic and social situation in Nepal, the difficulties were not inconsiderable, particularly with regard to publicizing the Covenant and generally enhancing awareness of human rights in the country. Every citizen's right to be informed of matters of public importance was an accepted principle; a decision to that effect had recently been handed down by the Supreme Court, and the enactment of a corresponding law was being considered. However, no definition of what constituted a matter of public importance had yet been established. While there was clearly a need for the police and the local authorities to know more about human rights, the dissemination of information was made difficult by problems of communications and language. Nevertheless, activities in the human rights field had undoubtedly increased over the past three or four years, and discussions were taking place both in the towns and in the countryside. By way of example, he cited a one-day seminar on human rights organized for the benefit of the Nepalese police and a similar seminar on the bill on compensation for torture organized by a regional lawyers' organization in the western part of the country.

60. The CHAIRMAN thanked the representatives of Nepal for their full and candid explanations and invited members of the Committee to make their concluding observations.

61. Mrs. EVATT thanked the Nepalese delegation for taking part so cooperatively in what had been a most encouraging first dialogue. Considering that the changes in Nepal had taken place so recently, the country had done very well in ratifying the Covenant and the First Optional Protocol and in submitting its initial report to the Committee. The spirit of tolerance

reflected in the report and in the delegation's replies was to be commended. However, Nepal clearly still had some way to go in the matter of human rights. More should be done to involve NGOs in disseminating information about the Covenant, the Constitution and the laws enacted in order to comply with the Covenant. She hoped that information supplied by NGOs to members of the Committee and referred to in the course of the discussion would be studied by the Nepalese Government. As already pointed out, the initial report failed to provide sufficient information on how human rights provisions were being applied in practice. In the absence of such detailed information, it was difficult to comment on Nepal's compliance with many articles of the Covenant. Thus, she would wish to know more about the bill on compensation for torture, the grounds for denial of a passport, the question of who was responsible for issuing a search warrant, the question of appeals, etc. In regard to freedom of expression, it would seem that the restrictions allowed under Nepalese law went far beyond the limits set by the Covenant, but there again it was difficult to reach a conclusion without more details. The question of child labour was not touched upon in the report; she appreciated the explanations supplied orally at the current meeting and hoped that the subject would be elaborated upon in subsequent reports. The provision of legal remedies and the publication of litigation results were to be commended, but the information needed to be more widely disseminated in the country.

62. In her earlier questions she had specifically referred to the rights of women in Nepal, not only in terms of equality but also in relation to women's economic and social status in general. Nepal had to do considerably more in that respect. A country's modest resources and income did not exonerate it from providing a minimum level of living conditions for its citizens. Lastly, she was glad to note that prison conditions were improving, and expressed the hope that Nepal would soon abolish the death sentence and become a party to the Second Optional Protocol.

63. Mr. PRADO VALLEJO also thanked the delegation of Nepal for its answers and commended the very considerable progress made by Nepal, through the establishment of a multi-party democracy and the adoption of an excellent new Constitution. However, further efforts were still needed with regard both to the legal and to the practical aspects of a number of issues. That was particularly true of the status of women; unacceptable practices such as forced marriage still existed, and the situation regarding women's inheritance and property rights was far from satisfactory. Another problem arose with respect to the punishment of perpetrators of human rights violations and compensation for victims. Systematic investigation of human rights violations appeared to be lacking, and a new spirit on the part of the Government was called for in that respect. The emergency laws required further review, as did the legal and practical situation with regard to disappearances, the right of appeal, habeas corpus and imprisonment for non-payment of debts. The Government should make a greater effort to comply with the ILO Equal Remuneration Convention, 1951, No. 100. Lastly, notwithstanding the information given in the report, he believed that minorities did exist in Nepal; their rights had to be protected in accordance with article 27 of the Covenant.

64. Mr. FRANCIS associated himself with the words of appreciation addressed to the Nepalese delegation. Emphasizing the link between economic

development, education and the promotion of human rights, he urged the Government of Nepal to continue its efforts towards development within the limits of its resources and expertise.

65. Mrs. HIGGINS also thanked the Nepalese delegation for its assistance and particularly for the highly positive attitude it had adopted in face of the many critical questions addressed to it. She associated herself with previous speakers in congratulating the Government of Nepal on ratifying the Covenant and acceding to the First Optional Protocol. Referring, in connection with the implementation of article 9 of the Covenant, to the role of the Chief District Officer mentioned in paragraph 24 of the initial report, she said that, even with a possibility of appeal to a judicial body, the judicial function seemed to be unacceptably close to the executive function. With regard to torture (art. 10), she said that a feeling of impunity on the part of the police was the biggest enemy of human rights, and noted that Nepalese legislation on torture was still directed principally towards compensation. It was essential that not only the Police Act but the full weight of criminal law should be brought to bear upon those who practised torture. She had heard with interest the explanations provided by the delegation of Nepal on the subject of registration and was almost persuaded of the need for registration of political parties; registration of journalists, however, was in her view entirely unacceptable. On the subject of minorities, she noted with interest the distinction made in Nepal between minorities and vulnerable groups, but felt that what mattered was not the name given to a group but the steps taken to protect it. In that connection, she urged the Nepalese delegation to give careful study to the Committee's general comment on article 26, and also advised it to ask the Secretariat to provide it with a copy of a very good periodic report already considered by the Committee to serve as a model in the preparation of the second periodic report of Nepal.

66. Mr. WENNERGREN also addressed warm thanks to the delegation of Nepal and congratulated the Government on the excellent Constitution of December 1990. The achievement of full enjoyment of human rights in the country would, of course, take time, but the omens for the future were good. Noting that the powers of the Chief District Officer could extend to ordering a person's imprisonment for non-payment of debts, he said that such a situation was incompatible with article 11 of the Covenant and endorsed the previous speaker's call for a review of the Chief District Officer's powers.

67. Mr. POCAR associated himself with previous speakers in thanking the Nepalese delegation for supplementing the initial report and commended it upon the frankness shown in responding to members' questions. The human rights situation in Nepal was encouraging, but much remained to be done to ensure full implementation of the Covenant, not only in the legislative field, but, more especially, in that of education. Greater awareness of human rights, and particularly of the legal consequences of violating them, should be promoted among all persons in authority. He hoped that the Government's evident commitment to the cause of human rights would lead to substantial improvements in that field.

68. Mr. BAN said that, in his view, one of the greatest merits of the report was that it existed at all. The Government of Nepal should be congratulated on the courage it had shown in ratifying the Covenant and the First Optional

Protocol. He greatly appreciated the Nepalese delegation's openness and its efforts to provide the Committee with valuable information not contained in the initial report. However, in spite of the fruitful exchange that had taken place, the Committee's knowledge of the human rights situation in Nepal remained sketchy - as too, to all appearances, did knowledge of the Covenant in Nepal. He strongly advised the delegation to avail itself of the opportunity to collect material from the Centre for Human Rights, including especially the Committee's general comments, and to disseminate it among the authorities and members of the judiciary. The Committee would be in a better position to formulate an opinion on the second periodic report if it was provided with a fuller text relating to each article of the Covenant.

69. Mr. BRUNI CELLI joined previous speakers in congratulating the Nepalese delegation on its highly positive and helpful contribution. There could be no doubt of the Nepalese Government's desire and will to promote the development of human rights in the country. He had noted with interest that courses on human rights were held for members of the police force and wondered whether similar courses could not be arranged for prison officers, members of the judiciary and the population at large. He concurred with the advice proffered by previous speakers on the subject of the preparation of Nepal's next report.

70. The CHAIRMAN said that the Committee had been greatly encouraged to note the political will of the Government of Nepal to promote the improvement of the human rights situation in Nepal in line with international standards. Unlike his own country, Nepal had already taken the step of acceding to the First Optional Protocol to the Covenant. However, in order to make that accession meaningful, it was essential to educate the people and enhance awareness of human rights throughout the country. In conclusion, having thanked the Nepalese delegation once again for all its efforts, he advised it to take advantage of the technical assistance of the Centre for Human Rights in preparing the second periodic report.

71. Mr. LACOUL (Nepal) expressed his delegation's heartfelt thanks to the Committee for the valuable suggestions made during the consideration of his country's initial report. Such a dialogue was a new experience for Nepal, and he was pleased to note the very positive and cooperative manner in which it had been conducted. Members of the Committee could rest assured that all the views expressed had been duly noted and would be conveyed to the appropriate quarters.

72. The CHAIRMAN said that the Committee had concluded its consideration of the initial report of Nepal, whose second periodic report was due on 30 August 1997.

The meeting rose at 6.10 p.m.